IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

WEDNESDAY, THE 13TH JUNE 2007 / 23RD JYAISHTA 1929

OP.No. 11570 of 2001(B)

PETITIONER:

S.SHOBANAKUMARI,
SALES ASSISTANT,
KERALA RURAL DEVELOMENT & MARKETING SOCIETY (KERAMS),
DIAMOND HILL VELLAYAMBALAM,
THIRUVANANTHAPURAM.

BY ADV. SRI.G.GOPAKUMAR (TVM)

RESPONDENTS:

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1. STATE OF KERALA, REP.BY THE CHIEF SECRETARY TO GOVERNMENT,
THIRUVANANTHAPURAM.

2. SECRETARY TO GOVERNMENT,
LOCAL SELF GOVERNMENT,
GOVERNMENT SECRETARIAT AND CHAIRMAN,
KERALA RURAL DEVELOPMENT & MARKETING SOCIETY.

3. THE MEMBER SECRETARY,
KERALA RURAL DEVELOMENT AND
MARKETING SOCIETY (KERAMS),
DIAMOND HILL, VELLAYAMBALAM,
THIRUVANANTHAPURAM.

4. R.CHANDRAN,
SALES ASSISTANT,
KERALA RURAL DEVELOMENT AND
MARKETING SOCIETY (KERAMS),
DIAMOND HILL, VELLAYAMBALAM,
THIRUVANANTHAPURAM.

BY FOR R1 TO R3, GOVERNMENT PLEADER, SMT.SMITHA SUKUMAR
FOR R4, SRI.P.KESAVAN NAIR

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 13/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP.No. 11570 of 2001(B)

APPENDIX

ORDER ON C.M.P.NO.18570/2001 IN OP.No. 11570 of 2001(B)

CLOSED.

SD/-THOTTATHIL B.RADHAKRISHNAN, JUDGE

13/06/2007

PETITIONER'S EXTS:

EXT.P1 PHOTOCOPY OF THE ORDER NO.RDMS-60/89 DATED 28/9/1989 BEFORE THE 3RD RESPONDENT.

EXT.P2 PHOTOCOPY OF THE ORDER NO.RDMS-B-1/96 DATED 22/5/1997 SIGNED BY THE 3RD RESPONDENT.

EXT.R3 PHOTOCOPY OF THE ORDER NO.RDMS-B-1/96, DATED 28/3/2001 BEFORE THE 3RD RESPONDENT.

EXT.R4 PHOTOCOPY OF THE BYE-LAWS BEFORE THE KERALA RURAL DEVELOPMENT AND MARKETING SOCIETY.

EXT.P5 TRUE COPY OF LETTER NO.1854/2000.S.(LSG) DATED 28.9.2000 OF THE CHAIRMAN KERAMS STAYING EXT.R4-A ORDER OF THE 4TH RESPONDENT.

EXT.P6 TRUE COPY OF THE ORDER RDMS.B.173/1994 DATED 28/11/2000 ISSUED BY THE 3RD RESPONDENT EXTENDING THE TERM OF THE PETITIONER WITH EFFECT FROM 29/9/2000.

EXT.P7 TRUE COPY OF THE ORDER RDMS-B.173/94 DATED 23/2/2000 ISSUED BY THE 3RD RESPONDENT EXTENDING THE TERM OF THE PETITIONER FOR ONE YEAR FROM 29/9/1999.

EXT.P8 TRUE COPY OF THE OFFICE ORDER DATED 31/10/1994 ISSUED BY THE 3RD RESPONDENT ENTRUSTING THE CASH COUNTER DUTY TO SALES ASST. ON ROTATION.

RESPONDENTS' EXTS:

EXT.R1 PROCEEDINGS OF KERAMS MEMBER SECRETARY, ORDER NO.RDMS(B) 73/04, DATED 23/07/2004.

EXT.R4(A) TRUE COPY OF THE ORDER DATED 28/9/2000 OF THE 3RD RESPONDENT TERMINATING THE SERVICES OF THE PETITIONER.

EXT.R4(B) TRUE COPY OF THE OFFICE ORDER DATED 30/3/2000.

\\TRUE COPY//

THOTTATHIL B. RADHAKRISHNAN, J.

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O.P.No. 11570 of 2001 (B)

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Dated this the 13th day of June, 2007

J U D G M E N T

The petitioner and the contesting fourth respondent were salesmen in a government owned Society. The petitioner's employment commenced much before that of the fourth respondent. The complaint of the petitioner is that inspite of an issue regarding regularisation of the petitioner being pending, the fourth respondent, the admitted junior, if one were to go by entry into service, was promoted as Cashier, on the directions of the Government, subject to ratification of the governing body of the Society. Whatever be the powers of the Government over the governing body, the situation noticed above is plainly impermissible, irrational and discriminatory.

2. With the passage of time, wisdom appears to have been dawned on the governmental authorities and the second respondent has filed a counter affidavit and Ext.R1 showing that

the appointment of the fourth respondent as Cashier has since been recalled.

In view of the aforesaid facts, this original petition is closed, upholding contentions of the petitioner, however, without issuing any directions in view of Ext.R1.

THOTTATHIL B.RADHAKRISHNAN
Judge

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THOTTATHIL B. RADHAKRISHNAN, J.

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O.P.No. 11570 of 2001 (B)

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J U D G M E N T

13th June, 2007